

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Re: Appeal to the Board of Patent Appeals and Interferences

Appellants: Schuller, et al.)	Examiner: Langdon, Evan H.
)	
Serial No: 10/726,267)	Group Art Unit: 3654
)	
Filed: December 2, 2003)	Deposit Account No: 04-1403
)	
Confirmation No: 3358)	Customer No: 22827
)	
Title: Friction Ring for a Friction Roll for the)	Attorney Docket No: S&S-1202A
Driving of a Spool on a Textile)	
Machine)	

1. ☐ **NOTICE OF APPEAL:** Pursuant to 37 CFR 41.31, Applicant hereby appeals to the Board of Appeals from the decision dated _____ of the Examiner twice/finally rejecting claims _____.
2. ☐ **BRIEF** on appeal in this application pursuant to 37 CFR 41.37 is transmitted herewith (1 copy).
3. ☐ An **ORAL HEARING** is respectfully requested under 37 CFR 41.47 (due within two months after Examiner's Answer).
4. ☒ Reply Brief under 37 CFR 41.41(b) is transmitted herewith (1 copy).
5. ☐ "Small entity" verified statement filed: [] herewith [] previously.

6. **FEE CALCULATION:**

	Fees
If box 1 above is X'd enter \$ 510.00	\$ _____ 0.00
If box 2 above is X'd enter \$ 510.00	\$ _____ 0.00
If box 3 above is X'd enter \$1,030.00	\$ _____ 0.00
If box 4 above is X-d enter -0- (no fee)	\$ _____ 0.00

PETITION is hereby made to extend the original due date of _____,
hereby made for an extension to cover the date this response is filed for which
the requisite fee is enclosed (1 month \$120; 2 months \$460; 3 months \$1,050;
4 months \$1,640, 5 months \$2,230

	\$ _____ 0.00
--	---------------

SUBTOTAL: \$ _____ 0.00

Less any previous extension fee paid since above original due date. - \$ _____ 0.00

SUBTOTAL: \$ _____ 0.00

If "small entity" verified statement filed ☐ previously,
☐ herewith, enter one-half (1/2) of subtotal and subtract - \$ _____ 0.00

TOTAL FEE ENCLOSED: \$ 0.00

- ☐ Fee enclosed.
- ☐ Charge fee to our Deposit Account/Order Nos. in the heading hereof (for which purpose one additional copy of this sheet is attached)
- ☐ Charge to credit card (attach Credit Card Payment Form – PTO 2038)
- ☐ Fee NOT required since paid in prior appeal in which the Board of Appeals did not render a decision on the merits.

The Commissioner is hereby authorized to charge any fee specifically authorized hereafter, or any fees in addition to the fee(s) filed, or asserted to be filed, or which should have been filed herewith or concerning any paper filed hereafter, and which may be required under Rules 16-18 (deficiency only) now or hereafter relative to this application and the resulting official document under Rule 20, or credit any overpayment, to our Account No. shown in the heading hereof. This statement does not authorize charge of the issue fee in this case.

DORITY & MANNING ATTORNEYS AT LAW, P.A.

ADDRESS:

Post Office Box 1449
Greenville, SC 29602 USA
Customer ID No.: 22827
Telephone: (864) 271-1592
Facsimile: (864) 233-7342

By: Tim F. Williams Reg. No: 47,178

Signature: 

Date: March 10, 2008

I hereby certify that this correspondence and all attachments and any fee(s) are being electronically transmitted via the internet to the U.S. Patent and Trademark Office using the Electronic Patent Filing System on March 10, 2008.

Diahann M. Munoz

(Typed or printed name of person transmitting documents)


(Signature of person transmitting documents)

ATTORNEY DOCKET: S&S-1202A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application: Schuller, et al.)	Examiner: Langdon, Evan
)	
Serial No.: 10/726,267)	Art Unit: 3654
)	
Filed: December 2, 2003)	Deposit Account: 04-1403
)	
Confirmation No.: 3358)	Customer No.: 22827
)	
Title: Friction Ring for a Friction Roll for the)	
Driving of a Spool on a Textile Machine)	

APPLICANT'S REPLY TO EXAMINER'S ANSWER

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Applicant hereby submits a reply to the Examiner's Answer mailed on January 8, 2008.

Appellants reply to the Examiner's Answer as set forth below.

A. Appellants did not make “inaccurate and misleading” descriptions of Burke et al.

The Examiner's Response to Argument begins by asserting that Appellants' reference to Burke et al.'s “ring as a ‘metal’ sleeve is inaccurate and misleading.”¹ Appellants' actual characterization of Burke et al. at, for example, page 6 of Appellants' Brief on Appeal is as follows:

Burke et al. at Col. 1, lines 11-14. More specifically, Burke et al. is directed to a gapless, seamless nip roller 12 with a nip sleeve 14 for a printing press. Burke et al. at Col. 2, lines 31-34. Burke et al.'s nip sleeve 14 is constructed from a sleeve that comprises a rigid cylindrical metal or plastic tube 46 (Burke et al. at col. 4, lines 31-54) onto which several other layers are also formed. Burke et al.'s cylindrical sleeve 14 is designed to have an interference fit with nip roller 12 and is installed as a continuous sleeve that must be slid on or off engageable nip roller 12 by

Appellants respectfully submit that Appellants' characterization of Burke et al. is wholly accurate in view of Burke et al.'s express disclosure of a rigid cylindrical metal or plastic tube onto which several layers are formed as set forth at Col. 3, line 64 to Col. 4, line 47 of Burke et al.

B. Burke et al. does not disclose a belt with two open ends as required by Claim 23.

Appellants' assert that Burke et al. does not disclose a “friction ring configured as a belt with two open ends bound together by a fastening apparatus” as expressly required by

¹ Examiner's Answer at p. 6.

independent claim 23. Instead, Burke et al. discloses only a rigid cylindrical sleeve onto which seamless layers have been formed. Because a belt is a flexible element, Appellant's belt can be wrapped around a nip roller of a textile machine and bound at two open ends as set forth in the present application. In short, Burke et al. indicates a seamless sleeve - not a belt nor a belt having two open ends bound together by a fastening apparatus (Burke et al.'s sleeve is seamless – i.e. no open ends).

Contrary to the ordinary meaning of the term “belt” as read in light of the specification or a dictionary, the Examiner asserts that a belt does not have to be “flexible” and, instead, can be any encircling ring. For this non-ordinary construction, the Examiner cites to a Collins English Dictionary from the Internet for a definition of belt as “any encircling or transverse band, strip, or strip.” The examiner provides the following web address:

<http://www.credoreference.com/entry12621843>. Appellants were unable locate at this website a dictionary or the definition posited by the Examiner. However, a Collins English Dictionary available on the internet provides the following definition of “belt”:²

² Emphasis added. As of March 8, 2008, this dictionary was available under CollinsLanguage.com as the following address <http://www.collinslanguage.com/results.aspx?js=on&dictionary=Choose+your+dictionary&text=belkt>



Search Results

belt

belt

NOUN

- 1 a band of leather or cloth worn around the waist
- 2 an area where a specific thing is found, zone ◇ *a belt of high pressure*
- 3 *same as*: seat belt
- 4 a band of flexible material between rotating shafts or pulleys to transfer motion or transmit goods ◇ *a fan belt*; ◇ *a conveyer belt*
- 5 (INFORMAL) a sharp blow
- 6 ◇ *below the belt* (INFORMAL) unscrupulous or cowardly
- 7 ◇ *tighten one's belt* to reduce expenditure
- 8 ◇ *under one's belt* as part of one's experience ◇ *he had a string of successes under his belt*

VERB

- 1 to fasten with or as if with a belt
- 2 to hit with a belt
- 3 (SLANG) to give (someone) a sharp blow
- 4 (FOLL. BY) (ALONG) (SLANG) to move very fast

Get more with PRO

Free 10 day trial

Upgrade to PRO

Premium access with Collins English Dictionary PRO

As set forth, a belt is defined as a “flexible” element using the dictionary referred to by the Examiner. A more traditional dictionary, Webster's, provides a similar definition of “belt” as a “flexible” material:³

'belt \ˈbɛlt\ *n* [ME, fr. OE; akin to OHG *balz* belt; both fr. a prehistoric WGmc-NOmc word borrowed fr. L *balteus* belt] 1 **■** : a strip of flexible material worn esp. around the waist **■** *b* : a similar article worn as a corset or for protection or safety 2 : a continuous band of tough flexible material for transmitting motion and power or conveying materials 3 : an area characterized by some distinctive feature (as of culture, habitation, geology, or life forms); esp : one suited to a particular crop (the corn ~) — **belt-ed** \ˈbɛlt-əd\ *adj* — **belt-less** \ˈbɛlt-ləs\ *adj* — **below the belt** : UNFAIRLY — **under one's belt** : in one's possession : as part of one's experience

³ Webster's New Collegiate Dictionary, 101 (1981).

However, the Federal Circuit has made clear that the meaning of terms in the claims is determined by reference to the context of the claims and the specification. Phillips v. AWH Corp., 415 F.3d 1303 (Fed. Cir. 2005) (en banc). Appellants' specification makes clear that "belt" is an element that must have flexibility because Appellants' friction ring can be placed onto a roller by unfastening the ends and placing it around the roller without having to remove the roller. See, e.g., Appellants' specification at page 2, lines 4-11; page 8, lines 4-11; page 10, lines 1-19.

The only other reference cited by the Examiner, Labesky, also does not disclose a "friction ring configured as a belt with two open ends bound together by a fastening apparatus." The Examiner does not argue otherwise.

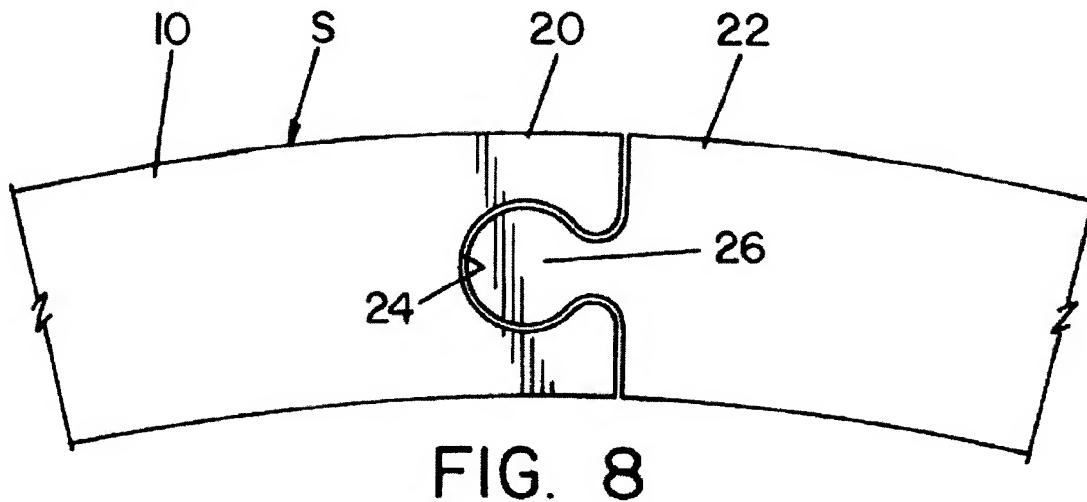
Therefore, applying the ordinary meaning of "belt", this element of Appellants' claims is not found in any reference cited by the Examiner. For at least this reason, Appellants' respectfully submit that the Examiner's rejections are improper and all pending claims should be allowed.

C. The Examiner's proposed modification of Burke et al. with Labesky contradicts the express teaching of Burke et al. and its object of invention.

Burke et al. expressly indicates that the "nip sleeve 14 includes a cylindrical outer layer 30 upon which a smooth continuous outer side surface 32 of the sleeve is disposed, as shown in Fig. 3. . . . The smooth outer side surface 32 of the nip sleeve 14 has no gaps or seams other than one more ring shaped angular gaps 36 disposed actually along the length of the nip sleeve, as shown in Figs. 1 and 2." (Burke et al. at col. 3, line 67 to col. 4, line 8). Having a seamless,

gapless, nip roller is in fact an objective of the invention according to Burke et al. (Col. 2, lines 31-34).

However, modifying Burke et al. by using Labesky's fastening means whereby Labesky attaches the two open ends of a coiled, steel spring creates a seam or joint as shown, for example, in Fig. 8 of Labesky:



Clearly, however, such a seam or joint would contradict the intended purpose and principle of operation expressly set forth and required by Burke et al. of having a gapless, seamless nip roller.⁴

The Examiner attempts to avoid this problem of modifying Burke et al. with Labesky by incorrectly asserting that Labesky teaches a ring with no gaps or seams in the connection because the ends of Labesky's ring are closed by interlocking elements 24 and 26. However, the fact that Labesky's ring is closed is immaterial because even in the closed position Labesky

⁴ As set forth by Applicants in the Response to Office Action, mailed on February 28, 2007, at pages 6, 8-9.

inevitably leaves a seam created by the connection of elements 24 and 26. Contrary to the Examiner's assertion, this seam is shown not only in Fig. 8, but in Figs. 2, 7, 9, 14, 16-23, 24, 27 because a seam is unavoidably created when the two ends are connected as described by Labesky. In fact, every connection shown on Sheet 8 of Labesky's figures includes a seam:

U.S. Patent

Nov. 10, 1998

Sheet 8 of 9

5,833,776

FIG. 16

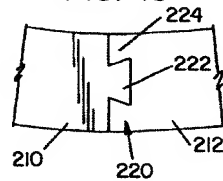


FIG. 17

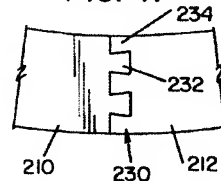


FIG. 18

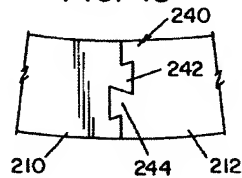


FIG. 19

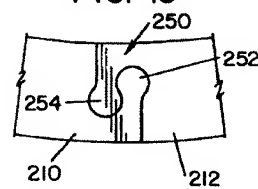


FIG. 20

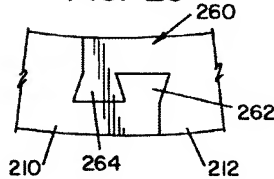


FIG. 21

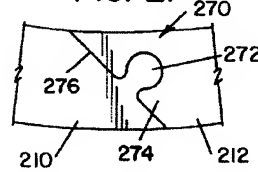


FIG. 22

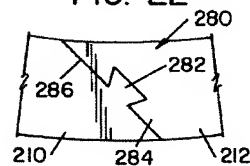
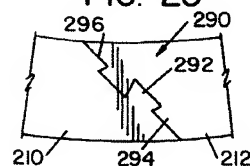


FIG. 23



Therefore, Applicants' respectfully submit that one of ordinary skill in the art would not contradict Burke et al.'s express indication of a seamless nip sleeve and provide the seam of Labesky because such would render Burke et al. unsatisfactory for its stated object of invention. Because MPEP § 2143.01 prohibits a modification of references that would render prior art either unsatisfactory for its intended purpose or that would change the principle operation of a reference, Appellants respectfully submit the Examiner's rejections are improper and all claims should be allowed to issue.

D. The Examiner's Answer has failed to set forth evidence or other substantive support for a reasonable expectation of success in the proposed modification of Burke et al. with Labesky.

The Examiner's Answer merely states conclusions without any underlying support to show a reasonable expectation of success for the proposed modification.

In addition, in an effort to bolster the unsupported conclusion of success, at page 8 the Answer states that the modification of Burke et al. with Labesky would provide "no changes in their respective functions." To the contrary, as set already forth above, Labesky would provide a seam at the point of connection in direct contradiction to the expressly stated objective of Burke et al. to provide a seamless nip sleeve.

Therefore, because the Examiner has not set forth a reasonable expectation of success as required by MPEP § 706.02(j), Appellants respectfully submit the Examiner's rejections are improper and all claims should be allowed to issue.

E. Labesky is non-analogous art that is improperly applied.

Attempting to support the modification of Burke et al.'s nip sleeve with the Bellville spring of Labesky, the Examiner's Answer states:

the particular problem with which the applicant was concerned. The particular problem with which the applicant was concerned is to "create a friction ring for a friction roll which . . . can be exchanged with out disassembly and assembly of the friction roll and so exchanged in a simple and time saving manner." (Spec. 1 line 20 - 2 line 1). As stated above this is the same problem sought to be solved by Burket (Col. 3 ll. 1-5). In regard to Labesky, the problem to be solved is

(emphasis added). This statement reflects a misunderstanding of Burke et al.

Burke et al. provides a seamless sleeve. Unlike Appellants' claimed belt having two ends that are fastened together (creating a seam), Burke et al.'s sleeve can only be removed by disassembling the machine. In fact, Burke et al. sets forth a substantial amount of description for how the printing press must be disassembled in order to replace the seamless sleeve. See Col. 5, line 12 to Col. 6, line 30. For that reason, Burke et al. does not provide a solution to the problem that is solved by Appellant's belt as claimed. Adding Labesky does not overcome this deficiency because Labesky's Bellville springs are constructed from hardened steel, frustoconically-shaped coils – which could not be flexibly wrapped about a roll like Appellants' claimed belt. Thus, like Burke et al., Labesky is not reasonably pertinent to the problem to be solved.

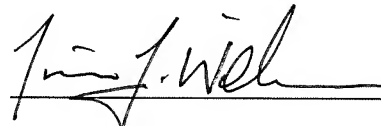
Conclusion

Appellants respectfully assert that all pending claims, including the dependent claims, should be allowed for the reasons set forth herein and in Appellants' Brief on Appeal.

Respectfully submitted,

DORITY & MANNING, P.A.

DATED: 10 MARCH, 2008

A handwritten signature in black ink, appearing to read "Tim F. Williams", is written over a horizontal line.

Tim F. Williams

Reg. No. 47,178

P.O. Box 1449

Greenville, SC 29602-1449

(864) 271-1592